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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/599,593	10/02/2006	Nikhil Dutt	703538.4054	1321
34313 7590 01/05/2012 ORRICK, HERRINGTON & SUTCLIFFE, LLP IP PROSECUTION DEPARTMENT 2050 Main Street, Suite 1100 IRVINE, CA 92614				
EXAMINER WANG, JUE S				
ART UNIT 2193		PAPER NUMBER		
NOTIFICATION DATE 01/05/2012		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

IPPROSECUTION@ORRICK.COM  
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**Advisory Action  
Before the Filing of an Appeal Brief**

**Application No.**

10/599,593

**Applicant(s)**

DUTT ET AL.

**Examiner**

JUE WANG

**Art Unit**

2193

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 19 December 2011 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: \_\_\_\_\_.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

/Lewis A Bullock, Jr./  
Supervisory Patent Examiner, Art Unit 2193

/JUE WANG/  
Examiner, Art Unit 2193

## Continuation of 3. NOTE:

The amendments to claims 1, 12, and 24, "each template configured to implement a functionality of an instruction contained within an instruction class, the instruction class describing a set of instructions of the instruction set architecture having a common behavior; reducing a set of original instructions of a target application program to a subset of the plurality of templates, wherein each template of the subset of templates is customized by using parameters contained within an original instruction of the set of original instructions; optimizing the subset if templates by compiling the subset of templates into a decoded program", change the scope of the claims and require additional consideration.

## Continuation of 11.

As per independent claims 1, 12, and 24, Applicants argue that Leupers and Morley do not teach "each template configured to implement a functionality of an instruction contained within an instruction class, the instruction class describing a set of instructions of the instruction set architecture having a common behavior; reducing a set of original instructions of a target application program to a subset of the plurality of templates . . . optimizing the subset of templates by compiling the subset of templates into a decoded program." Applicants argue that Morley describes dynamically generating semantic routines on demand during emulation rather than statically storing all routines in the body of a software emulation system. Applicant's arguments have been fully considered and Examiner respectfully disagrees. Examiner submits that Leupers is relied upon to teach reducing a set of original instructions of a target application program to a subset of a plurality of templates . . . optimizing the subset of templates into a decoded program (i.e., generating a simulation program such that each instruction of a machine program is decoded at compile time, and C macro calls to generic simulation functions are generated, see page 340, Figure 1, page 341, sections 4.1, 4.2, 4.3). Morley is relied upon to teach templates configured to implement the functionality of decoded instructions, wherein the template is associated with an instruction class that describes a set of instructions of the instruction set architecture having a common behavior (i.e., associating one copy of a semantic routine with all different variations of the basic instruction, each having a unique encoding in the instruction set of the emulated code, see column 3, line 43 - column 5, line 19). Leupers is not modified by Morley to include the dynamic generation of semantic routines on demand. Rather, Leupers is only modified by Morley's template format and the features of the template format. It would have been obvious to one of ordinary skill in the art at the time of the invention that Morley's template format and the features of the template format is usable regardless of when the decoding occurs, i.e., a generic copy of the template could be located statically and a customized copy of the generic template copy could be generated for the decoded instruction at compile time. As such, it would have been obvious to one of one of ordinary skill in the art at the time of the invention that Leupers can be modified with Morley's template format and its features while still performing the decoding statically.